

CRC 41-1993

HEARD AT LAKATORO, MALEKULA
(CENTRAL DISTRICT II)

CRIMINAL JURISDICTION

PUBLIC PROSECUTOR -V- 1.KALOA MARAK
2.KENNETH LEON
3.KALON CHARLEY
4.KALUEN TITUS
5.WILLIAM VETE
6.JOHN TETI JUDY
7.JIMMY STEPHEN
8.REUBEN VAL
9.SHEMA WILSON
10.JAPHET STEPHEN
11.KALUEN TITUS
12.EDY ROY

CORAM: BEAUMONT, Acting Judge
Hiliary TOA For Public Prosecutor
Heather LINI For Accused

REMARKS ON SENTENCE

The twelve Accused have pleaded guilty to a charge of Riot brought against them together under Section 70 of the Penal Code. I think that it is proper to accept their pleas. The Accused are convicted accordingly.

Arising out of the same incident, the Accused have also been charged, individually, with several charges of Intentional Assault under Section 107(b) of the Penal Code, the allegation being that the Assault caused "DAMAGE OF A TEMPORARY NATURE". Again, I think that it is proper to accept their pleas. The Accused are respectively convicted of these offences.

The Prosecution has applied for Compensation for the victims, who now reside in Santo. I propose to Order Compensation.

The Accused are all from the same village. They are in their thirties and twenties; some are younger. Most of them are married with children. They are all unemployed and engage in subsistence farming.

The incident in question occurred in April 1992. The People in the Accused's village felt that the victims had caused the death of the brother of one of the Accused. Other fears were expressed. The local Chiefs sought, unsuccessfully, to have the Police repatriate the victims to their home island. The staff of the local school were also concerned about the safety of the school children and expressed their fears publicly in a document. The Villagers mentioned practices of Witchcraft and black magic.

Members of the Village Community set up a fund to be paid to the Local Authorities to meet the costs of transporting the victims from Malekula. Apparently an arrangement was made that that Police assist in this process.

The incident in question is described by Mr Jimmy GARAE, Magistrate, in his reasons for committal as follows:-

"At about 6am on 16 April 1992, ^[THE ACCUSED] gathered together in a group at the Paul Cevaer Plantation. They waited for the police to assist them in a problem between them and men from Paama, the former accusing the latter of using witchcraft in causing the death of a young man from Tembibi.

When the Police did not arrive by 8.30 the accused conducted themselves in manner amounting to crimes for which they now stand charged. The manner in which they presented themselves frightened people since they were armed with iron bars, sticks, broken bottles, knives, axes, stones and barbwire placed around pieces of wood.

They regrouped into two groups, surrounded the homes of the four Paamese and attacked them.

The first complainant was Tuman Vanu, who in his statement said the accuseds set upon him, striking him with iron, pieces of wood barbwire and they also exhibited knives and axes. He stated the accuseds stopped beating him and three other Paamese when the Police arrived.

2nd complainant Jack David, 22 years old, stated on 16 April the accused went in a group to his house and attacked him with barbwire fastened around a piece of wood. Kaluen hit him with barbwire, Kalua did the same with a piece of wood, so was William. Others also struck him.

Complainant Manasah Avok Tom, aged 28, said the accuseds surrounded his home in two groups armed with iron bars, barbwire and sticks. They struck him with barbwire and pieces of wood.

Fourth complainant, Jonas Fred, aged 22, said he saw these accuseds in a group who descended upon him at his home and beat him. He said they also beat three other Paamese men."

The Hospital records indicate that the victims received the following injuries:-

1. TOUMAN VANU received multiple lacerations and bruising, including deep bruising, to many parts of his body.
2. JACK DAVID suffered similar, but not quite as extensive, injuries.
3. MANASAH AVOK suffered bruising in several places.
4. FRED JONAS received some lacerations and bruising.

On behalf of the Prosecution, it is suggested that, since these were first offences, and since there is no likelihood of their repetition - the victims having now moved to Santo - and since compensation is to be Ordered, it is appropriate that there be ~~suspensive~~ sentences, pursuant to Section 42 of the Penal Code, for Concurrent Periods of Two Years, on appropriate conditions.

After some hesitation, but making allowance in favour of the Accused for the facts that they have now pleaded guilty and that Compensation will be Ordered, I have come to the Conclusion that this is an appropriate punishment. It will be Conditional upon entry into a Bond not to engage in Violence or a Riot or an Unlawful Assembly.

In respect of the offence of Riot, I Order that, during the Period of Two Years from Today(1/6/93), each of the Accused appear for sentence, if called upon to do so, in the event that the accused fails

(i) to execute within a reasonable time, and

(ii) to perform each of the conditions in A Bond in writing containing a condition that he will not, in the said period, engage in any form of Violence, or a Riot, or an Unlawful Assembly.

I make a similar Order in each case in respect of the offence of Intentional Assault. As has been said, the period of two years to be specified in the bond to be given in respect of this offence is to be Concurrent with the period specified in the other bond.

I Order that the Accused concerned pay Compensation to the victims respectively as follows:-

1. TOUMAN VANU

Compensation In The Total Sum Of VT12.000 Is To Be Paid By Four Quarterly Instalments Of VT3.000 Each, Commencing On 1 September 1993, To Be Paid In Equal Shares By Those Accused Convicted Of Assaulting This Victim.

2. JACK DAVID

Compensation In The Total Sum Of VT8.000 Is To Be Paid By Four Quarterly Instalments Of VT2.000 Each, Commencing On 1 September 1993, To Be Paid In Equal Shares By Those Accused Convicted Of Assaulting This Victim.

3. MANASAH AVOK


Compensation In The Total Sum Of VT6.000 Is To Be Paid By Four Quarterly Instalments Of VT1.500 Each, Commencing On 1 September 1993, To Be Paid In Equal Shares By Those Accused Convicted Of Assaulting This Victim.

4. FRED JONAS

Compensation In The Total Sum Of VT4.000 Is To Be Paid By Four Quarterly Instalments Of VT1.000 Each, Commencing On 1 September 1993, To Be Paid In Equal Shares By Those Accused Convicted Of Assaulting This Victim.

I further Order that the Accused pay in equal shares, the Prosecution's Costs, in the sum of vt12.000, by four quarterly instalments of vt3.000 each, commencing on 1 September 1993.

Dated this 1st day of June 1993


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B.A. BEAUMONT
Acting Judge